

Notice of Allowability

Application No.

10/762,792

Examiner

Sikarl A. Witherspoon

Applicant(s)

DE FRUTOS ESCRIG ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an amendment filed 21 July 2005.
2. ☒ The allowed claim(s) is/are 1-3,5,6,10-13 and 15-19.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: the examiner has considered applicants' amendment filed July 21, 2005. In light of said amendment and the arguments therein, the examiner has withdrawn the rejection of record. As amended, the claims are drawn to a process for preparing a hydroperoxide by the oxidation of a hydrocarbon at a temperature in the range of 130 to 160° C, in the presence of a catalyst comprising a cyclic imide compound and an alkali metal compound. The closest prior art of record, i.e., Matsui et al teach a process for preparing hydroperoxides wherein the reaction takes place at a temperature in the range of 40 to 120° C, preferably from 50 to 100° C (col. 21, lines 31-34). The examples disclosed by Matsui et al are conducted at a temperature of 105° C, with comparative examples being conducted at 100° C. There is no teaching or suggestion in the reference, nor that could be found in any other prior art of record, that would motivate a person of ordinary skill to modify the reaction temperature taught by Matsui et al by increasing the temperature to a range of about 130 to 160° C, as claimed herein by applicants. Applicants have shown in their examples favorable conversion and selectivity to the hydroperoxide compound when practicing there invention at the temperature recited in the claims, coupled with the presence of an alkali compound with the cyclic imide catalyst.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with applicants' representative, John McMahon on September 27, 2005.

The application has been amended as follows:

In the specification:

On page 4, lines 11 and 17, the word "alkaline" has been changed to "alkali".

On page 5, line 2, the word "alkaline" has been changed to "alkali".

On page 6, lines 19, 21 and 24, the word "alkaline" has been changed to "alkali".

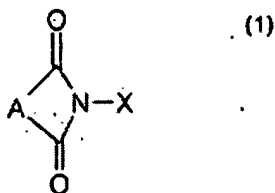
On page 7, line 1, the word "alkaline" has been changed to "alkali".

In the abstract: in line 7, the word "alkaline" has been changed to "alkali".

In the claims:

In claim 1, line 8, the word "alkaline" has been changed to "alkali".

In claim 2, the following structure has been inserted after "formula (1)



In claim 3, line 4, the letter, "N" has been inserted before the hyphen (-) in the words hydroxynaphthalimide and hydroxymaleimide; in line 5, the letter, "N" has been inserted before the hyphen (-) in the word hydroxysuccinimide.

In claim 5, line 2, the word "alkaline" has been changed to "alkali".

In claim 6, line 2, the word "alkaline" has been changed to "alkali".

In claim 10, line 7, the word "alkaline" has been changed to "alkali".

In claim 11, line 2, the word "alkaline" has been changed to "alkali".

In claim 12, line 7, the word "alkaline" has been changed to "alkali".

In claim 13, line 7, the word "alkaline" has been changed to "alkali".

In claim 19, line 8, the word "alkaline" has been changed to "alkali".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sikarl A. Witherspoon whose telephone number is 571-272-0649. The examiner can normally be reached on M-F 8:30-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Sikarl A. Witherspoon
SIKARL A. WITHERSPOON
PATENT EXAMINER